

NY CLS Town § 30

Current through 2025 released Chapters 1-49, 61-125

New York Consolidated Laws Service > Town Law (Arts. 1 — 19) > Article 3 Town Officers, Powers, Duties and Compensation (§§ 20 — 49)

Notice

🚩 This section has more than one version with varying effective dates.

§ 30. Powers and duties of town clerk

The town clerk of each town:

1. Shall have the custody of all the records, books and papers of the town. He shall attend all meetings of the town board, act as clerk thereof, and keep a complete and accurate record of the proceedings of each meeting, and of all propositions adopted pursuant to this chapter. Immediately after adoption he shall enter into a book to be known as the "ordinance book" a copy of every ordinance adopted by the town board, specifying the date of adoption thereof. In addition, he shall act as secretary of the board of commissioners of any improvement district when so designated by such board of commissioners. He shall keep a complete and accurate record in his office as town clerk of all proceedings of every board of commissioners of improvement districts in said town. The town clerk shall record all deeds of conveyances in the office of the clerk of the county in which the property is located and thereafter file the same in the town clerk's office. The cost and necessary expenses incurred in the recording of such deeds in the county clerk's office shall be a town charge.

1-a. Shall enter daily in a suitable book or books a record of all moneys received by him, and shall deposit all such moneys not later than the third business day after the total thereof exceeds the sum of two hundred fifty dollars.

2. He shall file all certificates or oaths and other papers required by law to be filed in his office.

3. He or she shall certify to the county clerk within twenty days after their appointment, the names of all appointive town officers, except inspectors of election, with their respective post-office addresses, the date of their appointment and expiration of term of office. He or she shall also on or before the tenth day of January in each year, file a certificate with the department of audit and control specifying the names of all town officers, whether elected or appointed, excepting inspectors of election, and file a certificate with the commissioner of taxation and finance specifying the names of all town assessors, with their respective post-office addresses, the date of their appointment or election and the expiration of term of office.

4. Whenever a vacancy shall occur or exist in any town office, the town clerk shall immediately notify the county clerk of such vacancy, specifying the name of the officer, the office in which the vacancy occurred and the date when the same became vacant. Within five days after such vacancy is filled, the town clerk shall file with the county clerk and the department of audit and control and, if the vacancy was in the office of assessor, with the commissioner of taxation and finance, a certificate specifying the name and address of the person filling the vacancy, together with the term for which elected or appointed. In the case of a person appointed to fill a vacancy in the office of town justice, the town clerk

shall file a duplicate certificate with the chief administrator of the courts. If a vacancy shall occur or exist in the office of town clerk, the supervisor shall notify the county clerk of such vacancy and the date when such office became vacant.

5. He shall deliver to the supervisor, before the annual meeting of the board of supervisors of the county in each year, certified copies of all propositions adopted by the town since the last annual meeting of the board of supervisors.

6. At the expense of the town he or she shall procure and affix on or near the main entrance to his or her office a sign-board with the name of the town followed by the words "town clerk's office" in plain characters thereon with sufficient space immediately below for posting thereon the legal notices of the town. Such sign-board and, in any town that maintains a regularly and routinely updated website and utilizes a high speed internet connection, an electronic version of such sign-board shall be one of the public places upon which any legal notice may be posted. Towns which maintain a regularly and routinely updated website and utilizes a high speed internet connection shall, to the extent practicable, maintain an electronic version of such sign-board and shall post a link to the electronic version of the sign-board on its homepage. An electronic version of such sign-board shall include a town website page designed or intended to provide electronic access to public notices. A town shall not be required to maintain an electronic signboard pursuant to this subdivision should the town incur additional costs in order to comply.

7. He shall issue all licenses or permits, whenever and in the manner required by this chapter or by any other law and collect all fees therefor, except as provided in section one hundred thirty-seven of this chapter.

8. [Repealed]

8-a. Any town in the county of Ontario may, by resolution of the town board and upon agreement with the board of supervisors of such county, authorize the town clerk of such town to provide for the care and protection of any road dedication books in his possession by placing them in the custody of the county clerk for filing and storage in a safe place and for such purpose the board of supervisors of Ontario county is hereby authorized to make such provision as may be necessary for the care and preservation of such road dedication books in the office of such county clerk.

9. Except in towns where the office of town comptroller has been created the town clerk, when required by resolution of its town board, shall countersign all checks required to be signed by the supervisor.

10.

(a) The town clerk may appoint, and at his or her pleasure remove, a first deputy town clerk, who shall serve without compensation from the town unless otherwise provided by the town board. Such compensation may be in addition to any other compensation he or she may receive as a town officer, town official or town employee. The town clerk shall establish the duties and responsibilities of the first deputy town clerk and such first deputy town clerk shall possess the powers and perform the duties of the town clerk during the absence or inability to act of the town clerk, or during a vacancy in the office of town clerk. Before he or she shall perform any function as such, the first deputy town clerk shall take and file the constitutional oath of office and execute and file an official undertaking in the manner prescribed in section twenty-five of this article.

In addition, the town clerk may appoint, and at his or her pleasure remove, up to two additional deputy town clerks whose duties and responsibilities shall be established by the town board. The town board, in its discretion, may delegate to the town clerk the authority to establish the duties of the additional deputy town clerks. Any such additional deputy town clerks shall serve without compensation from the town, unless otherwise provided by the town board. Such compensation may be in addition to any other compensation he or she may receive as a town officer, town official or town employee. Before he or she shall perform any function as such, the additional deputy town

clerk shall take and file the constitutional oath of office and if required by the town board, execute and file an official undertaking in the manner prescribed in section twenty-five of this article.

(b) In the event that the town clerk is absent or unable to act and there is no duly appointed and qualified first deputy town clerk present and able to act, the town board may appoint as deputy town clerk any person other than a member of the town board; provided, however, that such person be qualified as provided in [section three of the public officers law](#) and section twenty-three of this article. If the town board shall provide compensation for such deputy town clerk, such compensation may be in addition to any other compensation he or she may receive as a town officer, town official or town employee. Such deputy town clerk shall hold office at the pleasure of the town board and in no event for longer than the duration of such absence or incapacity of the town clerk.

10-a. Where a town has not established the office of receiver of taxes and assessments, the town clerk shall collect water rates and sewer rents unless the town board has designated another officer or employer to make such collections.

11. The town clerk shall have such additional powers and perform such additional duties as are or hereafter may be conferred or imposed upon him by law, and such further duties as the town board may determine, not inconsistent with law.

History

Add, L 1932, ch 634, eff Jan 1, 1934, with substance transferred from §§ 92, 92-a, 93–95, 97; amd, L 1933, ch 751, § 10; L 1937, ch 101; L 1937, ch 495, § 2; L 1941, ch 818; L 1941, ch 821; L 1941, ch 822; L 1942, ch 85, § 8; L 1942, ch 587, § 1; L 1943, ch 42; L 1945, ch 500, § 2, eff April 3, 1945; L 1947, ch 182; L 1953, ch 446, eff April 2, 1953; L 1953, ch 546, § 1, eff April 6, 1953; L 1953, ch 598, eff April 9, 1953; L 1954, ch 766; L 1958, ch 165; L 1961, ch 513, eff July 1, 1961; L 1963, ch 445, § 1; L 1969, ch 477, eff May 10, 1969; L 1972, ch 482, § 1; L 1974, ch 215, § 1, eff Jan 1, 1975; L 1977, ch 116, § 1; L 1981, ch 180, § 1; L 1984, ch 577, § 1, eff July 27, 1984; L 1986, ch 361, § 5; [L 1994 ch 385, § 64](#), eff Jan 1, 1995 (see 1994 note below); [L 2007, ch 280, § 1](#), eff July 18, 2007; [L 2010, ch 56, § 1](#) (Part W), eff June 22, 2010; [L 2021, ch 508, § 1](#), effective January 23, 2022.

Annotations

Notes

Editor's Notes:

[Laws 1994, ch 385, §§ 70 and 71](#), eff Jan 1, 1995, provide as follows:

§ 70. The provisions of this act shall supersede any inconsistent provision of law to the contrary.

§ 71. This act shall take effect January 1, 1995 except that [section fifty-six](#) of this act shall take effect immediately; provided further that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified, or shall expire or be deemed repealed, in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law.

[Laws 2021, ch 508, § 2](#), eff January 23, 2022, provides:

§ 2. This act shall take effect on the ninetieth day after it shall have become a law.

Amendment Notes:

2010. Chapter 56, § 1 (Part W) amended:

Sub 3 by substituting at fig 1 “commissioner of taxation and finance” for “state board of real property services”.

Sub 4 by substituting at fig 1 “commissioner of taxation and finance” for “state board of real property services”.

2007. Chapter 280, § 1 amended:

By adding sub 10.

The 2021 amendment by ch 508, § 1, in 6, in the first sentence, added “or she” and “or her”, added “and, in any town that maintains a regularly and routinely updated website and utilizes a high speed internet connection, an electronic version of such sign-board” in the second sentence, and added the third through last sentences.

Repeal Notes

[1969, ch 477] Local legislation by the St. Lawrence county board of supervisors has made it mandatory for the county clerk to advise each town clerk of all real property conveyances, thus the requirements of § 30(8) are no longer needed.

Notes to Decisions

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1. In general

Wage assignment is filed in office of county clerk, not town clerk. 1954 Ops St 54–6900.

The town clerk is not, by virtue of his office, a person authorized to take an acknowledgment for a deed of real property, and, unless otherwise qualified pursuant to law, may not administer the oath of office to members of fire police squads. 1955 Ops St Compt File #7599.

The supervisor and all other town board members have the right of access to the town clerk's office and the town safe. 1970 Ops St Compt File #45.

A town clerk is liable for the theft of public funds actually or presumptively in his custody. 1971 Ops St Compt File #853.

2. Attendance at town board meetings

Where written notice of claim brought by village fire department against town for damage to its fire engine while responding to call in town was mailed to a member of the town board and thereafter presented by that member to the town board at its next regularly scheduled meeting which occurred within the 60 day time limitation, such action constituted timely service upon the town clerk, since the town clerk is required by law to attend all board meetings. *Cuba Village v New Hudson*, 42 A.D.2d 829, 345 N.Y.S.2d 809, 1973 N.Y. App. Div. LEXIS 3883 (N.Y. App. Div. 4th Dep't 1973).

The absence of the town clerk did not invalidate proceedings taken at a special meeting of the town board, where no one questioned the fact that a resolution appointing a deputy town supervisor was adopted by a vote of four of five members of the board. [*Roth v Loomis*, 54 Misc. 2d 39, 281 N.Y.S.2d 158, 1967 N.Y. Misc. LEXIS 1456 \(N.Y. Sup. Ct. 1967\)](#).

The town clerk should be notified of an impending special meeting of the Town Board. 1964 Ops St Compt #258.

Where a town supervisor validly calls a special meeting of the town board and a resolution is adopted at such meeting creating the office of deputy supervisor, the validity of such resolution is not affected by the absence of the town clerk or the latter's failure to keep complete minutes, and, if all other proceedings are regular and lawful a deputy supervisor appointed pursuant to such resolution may properly serve the town. 1967 Ops St Compt File #292.

3. Custody of books, papers and records

Town board may not compel town officer or official to use rooms provided by town board, but may compel town records and other property to be kept in a place designated by town board. 1945 Ops St Compt 470.

It would not be illegal for a Town Board to establish a central mailing system which would sort out correspondence not required by law to be filed in the town clerk's office, provided all correspondence required by law to be filed in the office of the town clerk is promptly delivered to that office. 1961 Ops St Compt File #21.

A town board may adopt procedural rules which would authorize the supervisor to retain the original of correspondence he receives and file photostatic copies with the town clerk. 1968 Ops St Compt File #909.

4. Daily record of money received

While former § 36 required only that clerks of second class towns acting as tax collectors keep daily records, this section now imposes upon all town clerks the requirement of keeping daily records of money received. 1963 Ops St Compt #629.

5. Deputy town clerk, generally

Since this section makes no provision for a term of office for a Deputy Town Clerk, a deputy serves at the pleasure of the clerk and continues in office until his appointment is revoked. [Application of Town Board of Huntington, 206 N.Y.S.2d 371, 1960 N.Y. Misc. LEXIS 3894 \(N.Y. Sup. Ct. 1960\)](#), rev'd, 13 A.D.2d 704, 214 N.Y.S.2d 164, 1961 N.Y. App. Div. LEXIS 11297 (N.Y. App. Div. 2d Dep't 1961).

The town clerk of each town was formerly authorized to appoint not more than two deputy town clerks. 1955 Ops St Compt File #7136.

In the event that the town clerk and deputy town clerk must both be out of the town at the same time, an additional deputy town clerk may be appointed to act for the town clerk. 1955 Ops St Compt File #7769.

When the town clerk and deputy town clerk are attending a town clerks' school, the bookkeeper for the supervisor may be appointed by the board to act as deputy town clerk during their absence. 1960 Ops St Compt File #501.

The maximum number of deputies which may be appointed by a town clerk is three, and the wife of a town justice of the peace is eligible for such appointment. 1963 Ops St Compt #594.

A town may appoint a deputy town clerk for the limited purpose of issuing dog licenses and collecting the fees therefor. 1968 Ops St Compt File #259.

Where the additional duty of taking notes, outside of normal working hours, at negotiations under the Taylor Law may be an unreasonable burden on a town clerk who is assigned such duty, the clerk may appoint a deputy town clerk or the town board may employ a stenographer to perform such service. 1968 Ops St Compt File #1058.

A town which already has three deputy town clerks cannot authorize another person to sell fishing licenses, but the person may be eligible for appointment, by the Conservation Department, as a special game protector. 1969 Ops St Compt File #201.

6. —Compensation

A town clerk may appoint a deputy whose powers and duties are fixed by the town board. Unless that board otherwise determines he serves without compensation but the town clerk may pay such deputy personally or he may serve without compensation. 1945 Ops St Compt 527.

Town board must fix amount, time and manner of payment of deputy town clerk's compensation if it is determined that compensation is to be paid. If no provision is made for compensation for such deputy, clerk may pay same from such clerk's salary. 1947 Ops St Compt 136.

A mere budget appropriation for the compensation of a deputy clerk does not entitle a deputy clerk to be compensated for his services from the town without further action by the town board and the town may refuse to take such further action. 1956 Ops St Compt File #7920.

Town clerk should not compensate deputy from personal funds since their legal status is not clear and could give rise to obligation on part of town to pay withholding taxes and workers' compensation benefits or to make contributions for retirement, social security, and other fringe benefits. [1986 Op St Compt No. 86-36, 1986 N.Y. Comp. LEXIS 139.](#)

Town may adopt local rule providing that deputy town clerk will be paid on hourly or per diem basis only in instances where deputy actually serves in stead of town clerk. [1986 Op St Compt No. 86-79, 1986 N.Y. Comp. LEXIS 96.](#)

7. —Eligibility

Under subd. 10 of this section, the clerk of the Board of Zoning Appeals may be appointed a Deputy Town Clerk. [Application of Town Board of Huntington, 206 N.Y.S.2d 371, 1960 N.Y. Misc. LEXIS 3894 \(N.Y. Sup. Ct. 1960\),](#) rev'd, 13 A.D.2d 704, 214 N.Y.S.2d 164, 1961 N.Y. App. Div. LEXIS 11297 (N.Y. App. Div. 2d Dep't 1961).

Women are eligible for the office of deputy town clerk if otherwise qualified. 1954 Ops St Compt File #6840.

The owner of a sporting goods store may be appointed deputy town clerk for the sole purpose of issuing licenses under the Conservative Law. 1955 Ops St Compt File #7714.

The wife of a town councilman may be appointed deputy town clerk and compensated as authorized by the town board. 1956 Ops St Compt File #7889.

A resident of the City of Dunkirk, owner of a sporting goods store within the city, may not be appointed deputy town clerk of the town of Dunkirk, for the sole purpose of issuing hunting and fishing licenses. 1960 Ops St Compt File #760.

The maximum number of deputies which may be appointed by a town clerk is three, and the wife of a town justice of the peace is eligible for such appointment. 1963 Ops St Compt #594.

Deputy Town Clerk—Town Welfare Officer—Simultaneous holding of appointive town offices of deputy town clerk and welfare officer is not prohibited and the offices are not incompatible. 1967 Ops St Compt File #457.

While there is no legal prohibition against the appointment of the secretary to the town board to the office of deputy town clerk, whether it is advisable is a matter for local determination. 1968 Ops St Compt File #191.

In a town which does not have a town comptroller, it is highly inadvisable and undesirable for the deputy town clerk and confidential secretary-bookkeeper to be the same person. 1968 Ops St Compt File #833.

Part-time town judge should not serve as deputy town clerk within same township. Ops Adv Comm Jud Ethics No. 01-127.

8. Fees

A town clerk furnishing copies of records and papers on file in his office for which no fee is expressly allowed by law, should charge fees at the rate payable to the county clerk for a similar service. 1952 Ops St Compt File #5955.

The town clerk, town receiver of taxes, or anyone designated by local law has the responsibility for collecting fees paid for use, by private individuals, of a town-owned lake, but for practical reasons and sound accounting practice the permit fees should be collected by the person issuing the permit. 1964 Ops St Compt #320.

Fees for furnishing marriage license transcripts, certifications and searches, being payable to the town clerk, are the property of the town, and neither these functions nor fees are within the province of a registrar of vital statistics. 1965 Ops St Compt File #186.

A town clerk must furnish as many certified copies of town planning board meeting minutes as are requested. A fee of one dollar per page, or portion thereof, may be charged for such copies. 1969 Ops St Compt File #528.

The town board may not allow a deputy clerk to retain a portion of the fee collected for issuing a hunting or fishing license. 1973 Ops St Compt File #831.

9. Filing of security interest

A town clerk has no authority to destroy obsolete chattel mortgages and contracts of conditional sale filed in his office. 1945 Ops St Compt 526.

Town clerk under no duty to furnish to private person monthly list of chattel mortgages and contracts of conditional sale filed in his office. 1946 Ops St Compt 35.

10. Licenses and permits

A town clerk may not sell town parking permits to third parties for distribution by them to transients. 1967 Ops St Compt File #587.

11. Minutes, generally

Entry in the "minutes" referred to in Town Law section requiring ordinances to be entered in the minutes of the town board is not necessarily entry by the clerk in the "ordinance book" and nothing in the statute regulating zoning ordinances requires "minutes" to be bound in the form of a "book". [*Northern Operating Corp. v Ramapo, 26 N.Y.2d 404, 311 N.Y.S.2d 286, 259 N.E.2d 723, 1970 N.Y. LEXIS 1320 \(N.Y. 1970\)*](#).

Validity of otherwise valid town contract does not depend on resolution of town board being recorded in minutes of board meeting. [*Hubbard v Onondaga County Dep't of Health, 219 A.D.2d 832, 632 N.Y.S.2d 370, 1995 N.Y. App. Div. LEXIS 10881 \(N.Y. App. Div. 4th Dep't 1995\)*](#).

There is no requirement of law that town board members approve minutes of board meeting kept by town clerk, however, it is advisable that a motion be adopted by the board approving of such minutes after board members have had an opportunity to inspect the minutes or copies thereof. 1954 Ops St Compt File #6609.

Stenciled copies of minutes of town board proceedings if reasonably legible and of satisfactory permanence may be used for the official record book. 1955 Ops St Compt File #7627.

Where a town supervisor validly calls a special meeting of the town board and a resolution is adopted at such meeting creating the office of deputy supervisor, the validity of such resolution is not affected by the absence of the town clerk or the latter's failure to keep complete minutes, and, if all other proceedings are regular and lawful a deputy supervisor appointed pursuant to such resolution may properly serve the town. 1967 Ops St Compt File #292.

Town local laws and town ordinances must be recorded in the Town Clerk's Minute Book, and also recorded separately in the record book of local laws and the record book of local ordinances, which record books must be substantially bound. 1967 Ops St Compt File #351.

The town board may determine its rules of procedure so that a proposal which is not seconded will not be placed on the agenda. However, since the minutes must contain everything of substance, the fact that a councilman made a particular proposal must be included in the minutes. 1981 St Compt File #81-181.

Town is authorized to adopt local law that establishes flat fee for annual subscription to copies of minutes of town board meetings and provides for mailing of copies of minutes to those who have paid fee; amount of fee must be reasonably related to town's reproduction and mailing costs, and provisions of subscription service does not obviate need to respond to individual requests, submitted under Freedom of Information Law, or copies of minutes. [1999 Op St Compt No. 99-8, 1999 N.Y. Comp. LEXIS 8.](#)

Although the town clerk is required to record in the minutes of a town board meeting the name of each member of the board who was present, the clerk is under no statutory duty to record the names of other persons attending the meeting. A decision to publish the minutes of a town board meeting must be made by the affirmative vote of a majority of all the members of the town board, and not by the town supervisor acting unilaterally. The town board may also elect to publish at town expense the report of examination prepared by the office of the state comptroller. [1990 Op St Compt No. 90-52, 1990 N.Y. Comp. LEXIS 68.](#)

12. —Errors

When minutes of a prior meeting are read, errors should be corrected before the minutes are approved. 1967 Ops St Compt File #541.

13. Monthly warrant sheet

A town clerk is not obligated to gratuitously furnish copies of the monthly warrant sheet to the town constable; however, as a public document it must be available for inspection, and copies thereof must be provided upon tender of the fee allowed by law. 1974 Ops St Compt File #698.

14. N.O.W. account deposits

Given the transactional nature of N.O.W. accounts, whenever a municipal officer or employee is authorized or required to deposit moneys received by him in his official capacity, said officer may utilize either a checking account or a N.O.W. account. A town clerk is required to deposit all moneys received by him not later than three business days after the total thereof exceeds fifty dollars and therefore is authorized to deposit moneys in a N.O.W. account designated by the town board as a depository of town funds. [1983 Op St Court No. 83-123, 1983 N.Y. Comp. LEXIS 364.](#)

15. Office hours

The hours during which the town clerk of a town should be on duty are not prescribed by law. 1946 Ops St Compt 412.

Save as to receivers of and collectors of taxes no office hours are prescribed for town officers. It would appear that the town board may authorize the closing of town offices on Saturdays during the summer months. 1947 Ops St Compt 168.

Saturday closing of offices of supervisor and town clerk, and office of assessor in town of second class, is a matter for determination by each such officer. 1954 Ops St Compt File #6531.

There is no authority for a town board to fix office hours for a town clerk; the office hours to be kept by a clerk is a matter for determination by him. 1955 Ops St Compt File #7484.

A town board may, by local law, determine the hours during which the office of the town clerk is to be open to the public. A town board may not, however, require a town clerk to be present in his office during such office hours. 1969 Ops St Compt File #333.

16. Ordinance book, generally

Town local laws and town ordinances must be recorded in the Town Clerk's Minute Book, and also recorded separately in the record book of local laws and the record book of local ordinances, which record books must be substantially bound. 1967 Ops St Compt File #351.

17. —Effect of failure to make entry

Neglect of town clerk promptly to put ordinance adopted by board in "ordinance book" as required by statute prescribing essentials for enactment of zoning ordinance should be deemed a personal neglect by clerk and should not invalidate public action of board itself unless uncertainty about what was enacted resulted in someone's detriment. Zoning ordinance was not invalidated by failure of town clerk to immediately enter a copy in ordinance book, when it was enacted within the legal jurisdiction of the town board, duly published and posted, and kept publicly on file. [*Northern Operating Corp. v Ramapo, 26 N.Y.2d 404, 311 N.Y.S.2d 286, 259 N.E.2d 723, 1970 N.Y. LEXIS 1320 \(N.Y. 1970\)*](#).

Where zoning ordinance had not been entered in minute book or ordinance book of town board, and no authoritative copy thereof existed, the ordinance was invalid. [*Application of Bayberry Huntington, Inc., 1 Misc. 2d 342, 146 N.Y.S.2d 342, 1955 N.Y. Misc. LEXIS 2266 \(N.Y. Sup. Ct. 1955\)*](#).

18. School district matters

Duty of town assessors, not town clerk, to prepare and furnish duplicate of town assessment roll, or portion thereof, for central school district therein. 1950 Ops St Compt File #4370.

19. Signboards

A town clerk's sign-board must be affixed on or near the main entrance to the town clerk's office. If it is located inside of the town office building, it is nevertheless a public place. 1955 Ops St Compt File #7091.

A town clerk's signboard may be affixed inside or outside a public building near the main entrance to the building or the town clerk's office located therein. 1968 Ops St Compt File #572.

20. Water district matters

In a town of a second class, the Town Board may impose upon the town clerk the duty of collecting water rents. 1963 Ops St Compt #466.

Opinion Notes

Agency Opinions

1. In general

A town of the first class, by local law subject to mandatory referendum, may transfer the powers, duties and functions of the receiver of taxes and assessments to the town clerk or another town office. In the event that such powers, duties and functions are transferred to the town clerk, a deputy town clerk could be directed to assist the town clerk in the exercise of such powers, duties and functions. An appointive receiver of taxes and assessments could, by the adoption of a local law not inconsistent with any general law, be assigned additional duties. An appointive receiver of taxes and assessments could not be made an employee of the finance office or any other office. 1981 NY Ops Atty Gen June 1 (Informal).

Offices of town clerk and deputy supervisor are incompatible, as is positions of supervisor's bookkeeper and town clerk. 1986 NY Ops Atty Gen No. 86-30 (Informal).

Positions of deputy town clerk and village trustee are compatible where neither position is responsible to other, and neither is subordinate to other. 2006 NY Ops Atty Gen I 06-5.

Offices of town clerk and clerk of town court are compatible. NY Ops Atty Gen 89-13 (Informal).

A town clerk may not invest moneys which he receives nor may a town board authorize the clerk to invest town moneys on behalf of the supervisor. 1978 Op St Compt No. 78-535.

A 1978 claim for stenographic services, rendered to a town in 1976, may be authorized in 1978 and payment may be made thereon by the town board, provided that moneys were legally available in the 1976 budget to make payment if the claim had been submitted at that time and if moneys are presently available to pay the claim. 1978 Op St Compt No. 78-877.

Minutes of the town board meeting need not record a verbatim transcript of the board members' discussions, but should include everything of substance that occurred. 1978 Op St Compt No. 78-976.

There is no legal impropriety where a husband and wife simultaneously serve as town supervisor and town clerk, respectively. However, from a practical point of view, there is a question of the advisability of such an arrangement. 1979 Op St Compt No. 79-171.

Discussion of combining functions of a town clerk and town tax collector in a town of the second class so that one officer performs the duties of both offices. [1979 Op St Compt No. 79-224, 1979 N.Y. Comp. LEXIS 207](#).

A town board may ask the town clerk to provide it with a job description or other information with respect to his duties and the clerk may voluntarily provide it, but the board has no authority to compel the clerk to provide such information. 1980 Op St Compt No. 80-547.

Where the spouse of a town clerk is a printer, the town clerk has a prohibited conflict of interest in contracts between the town and the spouse for printing work done for the clerk's office only if the clerk has any powers and duties set forth in section 801(1) relative to such contracts. [1982 Op St Compt No. 82-264, 1982 N.Y. Comp. LEXIS 462](#).

2. Animal control matters

Under the uniform system of accounts prescribed for towns by the State Comptroller, a portion of the town clerk's salary and office expenses should be charged against the dog control appropriation account, based on a percentage estimate of time devoted to dog control activities. [1981 Op St Compt No. 81-223, 1981 N.Y. Comp. LEXIS 662](#).

3. Attendance at town board meetings

Discussion concerning notification of the town clerk of special meetings of the town board and concerning the clerk's right of attendance at executive sessions. 1978 Op St Compt No. 78-254.

The town clerk has the duty to attend and keep a record of all regular and special meetings of the town board, including "work sessions" where the agenda for the next regular meeting will be discussed. 1979 Op St Compt No. 79-373.

Town clerk had legal custody of taped meeting of town planning board, irrespective of who might have had physical possession of tape recording. Comm on Open Gov't FOIL-AO-12696.

CLS Town § 30 was intended to require presence of clerk to take minutes only in situation in which motions and resolutions are introduced and in which votes are taken; with respect to work sessions in which motions and resolutions are not introduced and in which no votes are taken, it is unnecessary for town clerk to be present to take minutes. Committee on Open Government OML-AO-1049.

To give effect to both Open Meetings Law and CLS Town § 30, which imposes certain responsibilities on town clerk, there are 3 options: first, town board can permit clerk to attend executive session in its entirety; second, town board can deliberate during executive session without clerk's presence, but, prior to any vote, call clerk into executive session for purpose of taking minutes in conjunction with duties imposed by town law; and third, town board can deliberate toward decision during executive session, but return to open meeting for purpose of taking action. Comm on Open Gov't OML-AO-2583.

While CLS Town § 30(1) requires town clerk to be present at each meeting of town board for purpose of taking minutes, it might not be reasonable to construe § 30(1) as requiring clerk's presence at meeting when there are no motions, proposals, resolutions or votes taken, as § 30 was enacted long before Open Meetings Law went into effect, and drafters of § 30 probably did not envision existence of extensive Open Meetings Law analogous to statute now in effect. Comm on Open Gov't OML-AO-2726.

4. Custody of books, papers and records

There is no authority for anyone to examine, in the absence of the town clerk or one of his deputies, the official records, books and papers for which a town clerk is responsible. 1970 NY Ops Atty Gen April 27.

A town may not construct a building larger than it will need itself in the foreseeable future and rent the surplus space to another town for storage of the records of the other town. Town records must be kept in the town clerk's office and within the town. 1978 NY Ops Atty Gen March 30 (Informal), [1978 N.Y. AG LEXIS 154](#).

Subject to the approval of the Commissioner of Education, a town may enter into an agreement with a county for the joint storage of public records in a facility located outside the town. NY Ops Atty Gen 84-F13.

A town board may require that the records of the town clerk's office be kept on space provided therefor in the town office building and, to that extent, the board may dictate the location of the town clerk's office. 1979 Op St Compt No. 79-221.

There is no requirement that the town clerk receive all mail addressed to the town. The rules and regulations of a town with regard to its public records may designate the town clerk as the individual to issue copies of town records, including town ordinances. [1979 Op St Compt No. 79-546, 1979 N.Y. Comp. LEXIS 141](#).

A town clerk is not responsible for the supervisor's financial records until the records are turned over to the clerk at the expiration of the supervisor's term. There is no authority for a bookkeeper to keep the town's financial records in her home, if it is possible for the records to be located in a public building; nor is there any authority which permits town officers to remove public records from the town clerk's office. [1980 Op St Compt No. 80-78, 1980 N.Y. Comp. LEXIS 291](#).

In most towns, records access officer is town clerk, for CLS Town § 30 specifies that clerk is legal custodian of all town records, even though town clerk might not have physical custody or possession of all town records, clerk nonetheless maintains legal custody of such records and, assuming that town clerk is records access officer, she has duty to respond to request and make records available to extent required by Freedom of Information Law, regardless of which town official physically maintains the records sought. Comm on Open Gov't FOIL-AO-4492.

Failure of town supervisor to share records or to inform clerk of their existence may effectively preclude clerk from carrying out her duties as records management officer, or if she or someone else is so designated as records access officer for purposes of responding to requests under Freedom of Information Law; if records access officer does not know existence or location of town records, that person may not have ability to grant or deny access to records in manner consistent with requirements of Freedom of Information Law. Comm on Open Gov't FOIL-AO-8289.

Town clerk, not Secretary to Ethics Board or member of Board, has authority to determine rights of access in response to request made under Freedom of Information Law where town clerk has been designated records access officer. Comm on Open Gov't OML-AO-3712.

Memorandum marked "confidential" would be in legal custody of town clerk, regardless of its physical location (i.e., whether in clerk's "official file" or elsewhere). Comm on Open Gov't OML-AO-3889.

Records prepared by chair of town board are not property of that person; on contrary, they would be in legal custody of Town Clerk and would constitute records subject to rights conferred by Freedom of Information Law. Comm on Open Gov't OML-AO-3889.

Town Supervisor would have no greater right of access or control over records prepared by chair of town board than any other member of board. Comm on Open Gov't OML-AO-3889.

5. Deputy town clerk, generally

6. —Eligibility

A female, other than wife or daughter of town clerk, is not eligible to hold office of deputy town clerk. 1911 N.Y. Op. Att'y Gen. No. 455.

Discussion of who is eligible for appointment as deputy town clerk. 1978 Op St Compt No. 78-604.

A deputy town clerk, regardless of the manner of appointment, must be a town resident. 1978 Op St Compt No. 78-1067.

The spouse of the town clerk, who is also treasurer of the local fire company may be appointed deputy town clerk. 1979 Op St Compt No. 79-109.

Rule requiring town clerk to prepare verbatim account of everything said at every town board meeting was unreasonable, was likely beyond town board's authority under CLS Town §§ 30 and 63, and would likely result in inefficiency; reasonable alternative would be to create audio or video recordings which, if necessary, could be reviewed to ensure accuracy, resolve disputes, or refresh memories. Comm on Open Gov't OML-AO-3658.

Offices of first deputy town clerk and clerk of justice court are compatible; there is no conflict of interest when the person holding both these positions is married to State trooper. 1985 NY Ops Atty Gen No. 85-70 (Informal).

Upon death of incumbent town clerk, deputy may serve only until vacancy can be filled through appointment by town board, appointee holding office until end of current year, and election must be held at next general election to fill office for balance of term. 1986 NY Ops Atty Gen No. 86-50 (Informal).

A town may amend a provision of the Town Law to authorize the appointment of four deputies to the town clerk. N.Y. Op. Att'y Gen. No. 84-55.

The officers of town clerk-tax collector and secretary of a fire district within the town are not incompatible. 1980 Op St Compt No. 80-82.

7. Fees

Where a town clerk accepts a check in payment of a fee for a hunting or fishing license and such check is returned for insufficient funds, the town clerk may be personally liable, but other considerations apply to a receiver of taxes who accepts a check that is returned for insufficient funds. 1978 Op St Compt No. 78-814.

If the building inspector of a town of the second class has not been authorized to collect fees for licenses and permits issued by him, the town clerk would collect such fees. [1979 Op St Compt No. 79-546, 1979 N.Y. Comp. LEXIS 141.](#)

A municipal clerk is personally responsible for license fees when paid by personal check which is dishonored for insufficient funds unless the municipal governing board, expressly or impliedly, has sanctioned the payment of fees by check and thereby has absolved the clerk of personal responsibility in that regard. Prior inconsistent opinions are hereby superseded. [1981 Op St Compt No. 80-601, 1981 N.Y. Comp. LEXIS 857.](#)

Given the transactional nature of N.O.W. accounts, whenever a municipal officer or employee is authorized or required to deposit moneys received by him in his official capacity, said officer may utilize either a checking account or a N.O.W. account. A town clerk is required to deposit all moneys received by him not later than three business days after the total thereof exceeds fifty dollars and therefore is authorized to deposit moneys in a N.O.W. account designated by the town board as a depository of town funds. [1983 Op St Compt No. 83-123, 1983 N.Y. Comp. LEXIS 364.](#)

8. Minutes, generally

9. —Effect of Open Meetings Law

CLS Town § 30, which requires presence of town clerk at each meeting of town board for purposes of taking minutes, does not require continued presence of clerk if it is clear that there will be no need to take minutes to comply with Open Meetings Law, that no action will be taken, and that meeting will be adjourned at conclusion of executive session. Comm on Open Gov't OML-AO-2244.

It is unclear whether board has authority to compel clerk to include information in minutes beyond requirements of Open Meetings Law. Comm on Open Gov't OML-AO-2605.

10. —Tape recordings

The position of confidential secretary or bookkeeper to the town supervisor, authorized by [section 29\(15\) of the Town Law](#), is incompatible with the position of deputy town clerk, but there exists no incompatibility between the position of confidential secretary or bookkeeper and the position of registrar of vital statistics. 1976 NY Ops Atty Gen Apr 29 (informal).

Town Clerk's Records—Tape recorders—custody and control 1. A tape recorder may be obtained by the town board to be used by the town clerk to record the proceedings at town board meetings so that minutes may be prepared therefrom but if a recorder is obtained the town clerk would be responsible for maintaining the tapes. 2. The tapes may not be maintained by any official other than the town clerk or his deputy. 3. It would be improper for the tapes to be sealed and to be opened only at town board meetings. 4. The town board may authorize other town officers to use the tape recorder and may direct who will have custody of the instrument. 1977 NY Ops Atty Gen Nov 17.

Tape recordings and notes used as an aid in compiling official minutes of town board meetings do not themselves constitute the official record and may be disposed of after the official minutes have been approved by the town board. [1978 Op St Compt No. 78-280, 1978 N.Y. Comp. LEXIS 184](#).

The town clerk, in his discretion, may utilize a tape recorder at town board meetings to aid him in preparing the official minutes of the meeting. [1982 Op St Compt No. 82-179, 1982 N.Y. Comp. LEXIS 538](#).

A resolution or motion passed by a Town Board, if otherwise valid, is not invalid because the town clerk fails to record it in his minutes, though the rule is probably otherwise with respect to ordinances. 1963 NY Ops Atty Gen Jan 28.

Town board members are entitled to receive carbon copies of town board meeting minutes prepared by the town clerk. Members of the general public may examine the minutes and copy them or may obtain copies from the town clerk by paying for the same. 1972 NY Ops Atty Gen Apr 28 (informal).

A town clerk is required to record in the minutes of the town board meetings all activities and considerations of the board including the votes on all motions, resolutions, ordinances, or local laws whether they were passed or defeated. The town board may require that some or all of the discussions taking place at a particular meeting be recorded verbatim. Where a board member requests that his statement be entered in the minutes in its entirety, the board must determine, by its rules of procedure, whether the clerk should record the statement or whether the board member should submit the statement in writing which would then be entered as part of the minutes. [1982 Op St Compt No. 82-181, 1982 N.Y. Comp. LEXIS 542](#).

A town board, by resolution or local law, may require the town clerk to submit the minutes of the preceding meeting to the board for approval before they may be published or made a part of the official record of the town. [1983 Op St Compt No. 83-54, 1983 N.Y. Comp. LEXIS 432](#).

Members of Town Board do not have authority to include or exclude language in board minutes as they desire; under CLS Town § 30 Town Clerk has statutory authority and obligation to prepare minutes of Town Board meetings, and so long as minutes are accurate and include items required by CLS [Pub O § 106](#), circumstances under which minutes might justifiably be altered or amended would be rare. Comm on Open Gov't OML-AO-3849.

11. N.O.W. account deposits

A town clerk and a town collector of taxes may be authorized to deposit moneys received by them in N.O.W. accounts in a bank or trust company located and authorized to do business in this state. [1983 Op St Compt No. 83-29, 1983 N.Y. Comp. LEXIS 448](#).

12. Office hours

A local law providing where the town clerk's duties will be performed and the hours when the town clerk's office must be open is not subject to a mandatory referendum. 1979 NY Ops Atty Gen Mar 29 (informal).

A town supervisor has no authority to set office hours for the town clerk but the town board may, by local law, determine the hours when the town clerk's office must be open for business. This does not include authority to require that the town clerk be personally present in the office during these hours. 1980 Op St Compt No. 80-742.

13. Signboards

A "public place" for the posting of legal notices is one open to unrestricted entrance and use of the public, and while telephone and light poles may be considered "public places" for such purposes, or a bulletin board located on the street outside of a building, one inside a newspaper office would scarcely fill the category. 1961 NY Ops Atty Gen Sept 28.

14. Water district matters

The cost of services rendered by an individual engaged for the purpose of putting in order the water and sewer billing records kept by the town clerk on behalf of the water and sewer districts would be a district charge as opposed to a charge against the town clerk's account. [1978 Op St Compt No. 78-933, 1978 N.Y. Comp. LEXIS 6.](#)

Town clerk must perform additional duties on behalf of water district as required by town board. Duties performed by town employee on behalf of water district are properly chargeable back to district as a district expense. 1979 Op St Compt No. 79-226.

Research References & Practice Aids

Cross References:

This section referred to in §§ 64, 73, 82, 108, 171, 193, 198, 199, 200, 202-c, 202-f, 209-d, 241; [Gen Mun §§ 281, 282](#); [Real P Tax §§ 501, 506, 516, 920, 1335](#).

Town and city clerks to issue certificates of marriage registration; form, CLS *Dom Rel* § 14-a.

Town and city clerks to issue marriage licenses; form, CLS [Dom Rel § 14](#).

Duty of town and city clerks, CLS [Dom Rel § 15](#).

Duties and expenses of town clerks as to public schools, CLS [Educ §§ 2140, 2141](#).

The New York State Conservationist, [CLS ECL § 3-0113](#).

Procedure in issuing licenses, [CLS ECL § 11-0713](#).

Open hunting seasons and bag limits fixed by regulation, [CLS ECL § 11-0903](#).

Supplemental assessment roll of real property in a school district other than a school district which is wholly or partly within a city, [CLS Real P Tax § 1335](#).

Date and certification of incorporation and effective dates, CLS [Vill § 2-234](#).

Succession of powers and duties upon incorporation of village embracing entire territory of town, CLS [Vill §§ 17-1704, 17-1706](#).

Jurisprudences:

12 NY Jur 2d Buildings, Zoning, and Land Controls § 157 .

25 NY Jur 2d Counties, Towns, and Municipal Corporations §§ 124, 146, 219, 284, 393 .

26 NY Jur 2d Counties, Towns, and Municipal Corporations §§ 483, 567—574, 588.

27 NY Jur 2d Counties, Towns, and Municipal Corporations §§ 1211, 1227, 1245 .

50 NY Jur 2d Elections § 742 .

92 NY Jur 2d Records and Recording §§ 9, 54, 100 .

99 NY Jur 2d Taxation and Assessment § 534 .

Hierarchy Notes:

[NY CLS Town](#)

[NY CLS Town, Art. 3](#)

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